

Message Text

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TO SECSTATE WASHDC 7751

INFO AMEMBASSY SEOUL

AMCONSUL HONG KONG

USLO PEKING

CINCPAC HONOLULU HI

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CINCPAC ALSO FOR POLAD

E.O. 11652: GDS

TAGS: PINT, JA

SUBJECT: SOCIALISTS AND COMMUNISTS ATTACK CHIEF JUSTICE

SUMMARY: SOCIALISTS (JSP) AND COMMUNISTS (JCP) HAVE DEMANDED IMPEACHMENT OF SUPREME COURT CHIEF JUSTICE FOR EXPRESSING APPROVAL OF PENDING LEGISLATION WHICH WOULD ALLOW TRIALS TO PROCEED EVEN IF DEFENSE COUNSEL RESIGNS TO DELAY THEM. ALTHOUGH IMPEACHMENT IS UNLIKELY, PASSAGE OF BILL COULD WELL BE DELAYED UNTIL NEXT DIET SESSION.
END SUMMARY.

1. JSP AND JCP HAVE INSTITUTED FORMAL IMPEACHMENT PROCEEDINGS AGAINST CHIEF JUSTICE OF SUPREME COURT, MASAO OKAHARA. CAUSE FOR ACTION WAS OKAHARA'S STATEMENT TO REPORTERS ON CONSTITUTION DAY, MAY 3, TO EFFECT THAT HE FAVORED LDP-SPONSORED BILL WHICH WOULD ALLOW TRIALS TO PROCEED IN CERTAIN CIRCUMSTANCES WITHOUT DEFENSE ATTORNEYS. BILL IS AIMED AT SPEEDING UP TRIALS OF LEFTIST RADICALS

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WHOSE LAWYERS IN RECENT YEARS HAVE RESIGNED FROM CASES IN DELIBERATE AND USUALLY SUCCESSFUL ATTEMPTS TO STALL LEGAL PROCEEDINGS. THAT TACTIC HAS CREATED LOGJAM IN RADICAL-RELATED (E.G., NARITA AIRPORT, ANTI-JSDF, RED ARMY) CASES NOW BEFORE COURTS. JUSTICE MINISTRY AND LDP PROPONENTS OF BILL LOOK ON IT AS PRACTICAL COUNTER-TACTIC WHICH WOULD UNENCUMBER COURTS.

2. JSP AND JCP SPOKESMEN HAVE SAID THAT IN VOICING OPINION ON BILL PENDING BEFORE DIET, JUSTICE OKAHARA BLATANTLY TRESPASSED AGAINST CONSTITUTION'S SEPARATION OF POWERS. OFFENSE WAS COMPOUNDED, THEY ADDED, BY VIRTUAL CERTAINTY THAT SUPREME COURT WOULD BE ASKED TO RULE ON BILL'S CONSTITUTIONALITY IF PASSED INTO LAW. JSP CHAIRMAN ASUKATA, WHO HAS BEEN LOOKING FOR WAYS OF ASSERTING JSP'S SUPPOSED LEADERSHIP OF OPPOSITION FORCES, HAS TOLD PRESS THAT PARTY'S MOVES AGAINST OKAHARA ARE PART OF ITS LARGER CAMPAIGN TO PROTECT CONSTITUTION. (JSP HAS ANNOUNCED HOLDING OF MASS RALLY DEMANDING OKAHARA'S RESIGNATION OR IMPEACHMENT IN TOKYO ON MAY 9 WITH SOHYO UNION MEMBERS AS MAIN PARTICIPANTS.) JSP AND JCP HAVE ALSO ANNOUNCED THEY WILL STEP UP OPPOSITION TO BILL ITSELF WHICH IS NOW BEFORE JUDICIAL AFFAIRS COMMITTEE OF LOWER HOUSE.

3. SO FAR, ONLY REACTION TO OKAHARA STATEMENT FROM LDP QUARTERS HAS COME FROM EXECUTIVE BOARD CHAIRMAN NAKASONE. AFTER BRIEF PRIVATE MEETING WITH PRIMIN FUKUDA JUST AFTER LATTER'S RETURN FROM U.S. VISIT ON MAY 7, NAKASONE TOLD PRESS HE THOUGHT OKAHARA HAD SPOKEN AS AN ADMINISTRATOR, NOT AS JUDGE, AND ADDED HE THOUGHT GOJ-LDP WOULD SUPPORT OKAHARA.

4. COMMENT: IF NAKASONE STATEMENT IS INDICATION OF
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ATTITUDE OF LDP LEADERSHIP, EXACERBATED CONFRONTATION OF LEFT VS. RIGHT OVER BOTH BILL AND CHIEF JUSTICE MIGHT DEVELOP WITH THREE MODERATE OPPOSITION PARTIES TEMPTED TO SIDE WITH LDP. THUS, DESPITE THEIR NOISE AND BLUSTER, JSP AND JCP HAVE LITTLE CHANCE OF ACTUALLY BRINGING ABOUT IMPEACHMENT OF CHIEF JUSTICE. TOGETHER THEY HAVE SIX OF TWENTY SEATS ON DIET'S SPECIAL IMPEACHMENT COMMITTEE, ENOUGH TO INITIATE INDICTMENT PROCEEDINGS, BUT FAR FEWER THAN TWO-THIRDS VOTE REQUIRED FOR IMPEACHMENT. BUT THEIR RESISTANCE TO PASSAGE OF BILL ITSELF WILL BE DETERMINED AND COULD WELL FORCE LDP TO CARRY IT OVER TO NEXT SESSION OF DIET. MANSFIELD

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